

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

ROMERO R. GARNER, SR,	)	CASE NO. 1:16CV182
	)	
Plaintiff,	)	
	)	JUDGE DONALD C. NUGENT
vs.	)	
	)	
	)	
SWAGELOK COMPANY,	)	ORDER ADOPTING MAGISTRATE
	)	JUDGE'S REPORT AND
	)	RECOMMENDATION
Defendant.	)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge William H. Baughman, Jr. (ECF #41), submitted on September 15, 2017. For reasons set forth herein, the Report and Recommendation is ADOPTED by this Court.

Plaintiff, Romero R. Garner, Sr. (Hereafter "Mr. Garner") brought this action against Defendant, Swagelok Company (hereafter "Swagelok"), in January of 2016, alleging racial discrimination in the workplace. This Court has jurisdiction over this matter pursuant to 42 U.S.C. § 405(g), and this matter was referred to Magistrate Judge Baughman, Jr., pursuant to Local Rule 72.2.

Mr. Garner asks this Court to review the decision of Magistrate Judge Baughman, Jr., which ruled on Plaintiff's motions as follows: (1) Swagelok's Motion to Dismiss the Second Amended Complaint (ECF #28) is GRANTED; (2) Mr. Garner's Emergency Motion for extension of discovery deadline (ECF #29) is MOOT, and (3) Mr. Garner's Motion for Leave to

Amend Second Complaint (ECF #33) is without merit, and therefore, DENIED. In the Report and Recommendation, Magistrate Judge Baughman, Jr., found that Mr. Garner failed to establish a prima facie case of employment discrimination. (ECF #41, pp. 6-7). Magistrate Judge Baughman, Jr., indicates that Mr. Garner admitted in pleadings that he was fired while essentially on probation from his job, in part for “running bad parts” and not performing standard work. (ECF #41, p. 7). Therefore, Magistrate Judge Baughman, Jr., found that Mr. Garner failed to state grounds on which relief may be granted, and recommended this Court dismiss Mr. Garner’s Second Amended Complaint.<sup>1</sup>

Mr. Garner filed Objections to the Report and Recommendation, (ECF #42), and Swagelok filed a Response to Plaintiff’s Objections on October 11, 2017 (ECF #43).

This Court has reviewed the Report and Recommendation of this case *de novo*, see *Massey v. City of Ferndale*, 7 F.3d 506 (6<sup>th</sup> Cir. 1993), and has considered all of the pleadings, affidavits, motions, and filings of the parties. After careful evaluation, this Court finds that Magistrate Baughman, Jr.’s Report and Recommendation is thorough, well-written, well-supported and correct. This Court, therefore, adopts the findings of fact and conclusions of law of the Magistrate Judge as its own.

For the foregoing reasons, the Report and Recommendation of Magistrate Judge Baughman, Jr., is hereby ADOPTED.

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<sup>1</sup> This dismissal encompasses any and all state law claims Mr. Garner attempts to argue separately from the federal employment discrimination claim.

Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Donald C. Nugent  
DONALD C. NUGENT  
United States District Judge

DATED: November 13, 2017